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CONCORD, N.H.

James J. Barry, Commissioner
N. H. Department of Public Welfare
State House Annex
Concord, New Hampshire

Dear Mr. Barry:

You have inquired as to my opinion whether payment may be made to employees in place of compensatory time off for holidays which fall on regularly assigned days off for the employees. It is my opinion that such payment may not be made.

The appropriate rule of the Division of Personnel is Rule VII, s. 2 (a), which reads as follows:

"When a holiday falls on the regularly assigned day off for an employee, such employee shall be compensated by another day off."

The subsection specifically states that the employee shall be compensated by another day off and does not authorize payment in lieu of the day off. The alternative method for payment for time off is allowed only when work is performed on a holiday. Subsection (a) as originally written and presented to the Governor and Council for approval specifically provided that when a regularly assigned day off fell on a holiday, there could either be monetary compensation or a day off. This was not acceptable and the present phrasing was adopted in its stead.

Prior to the recent interpretation placed upon the subsection, there was read into it the requirement that the holiday fall during a regular work week. Now compensatory time off is given for a holiday which falls upon an assigned day off whether or not that day is within the regular work week. This interpretation in no way changes the specific language of the subsection in relation to the method of compensation. ✓

Very truly yours,

Richard C. Duncan
Assistant Attorney General

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